

# EXHIBIT A

DEPOSITION OF AJIT PATEL - November 9, 2007

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

KARIN DUDZIENSKI,

Plaintiff;

vs.

No. 07 CV 3813

BCBG MAX AZRIA GROUP, INC., a  
California corporation,  
individually, and d/b/a BCBG  
MAX AZRIA; BCBG MAX AZRIA  
HOLDINGS, INC., a California  
corporation, individually, and  
d/b/a BCBG MAX AZRIA; BCBG MAX  
AZRIA INTERNATIONAL HOLDINGS,  
INC., a California corporation  
individually, and d/b/a BCBG  
MAX AZRIA; and DOES 1-10,

Defendants.

The deposition of AJIT PATEL, taken before Gina  
Nunes, a Certified Shorthand Reporter and Notary Public  
within and for the County of Cook and State of Illinois,  
at One South Wacker Drive, 28th floor, Chicago, Illinois,  
on the 9th day of November 2007, commencing at the hour  
of 9:35 a.m., pursuant to notice.

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<p>1 APPEARANCES:</p> <p>2</p> <p>3</p> <p>4 ZIMMERMAN LAW OFFICES, P.C., by</p> <p>5 MR. HUGH J. GREEN,</p> <p>6 100 W. Monroe Street, Suite 1300</p> <p>7 Chicago, Illinois, 60603</p> <p>8 (312) 440-0020,</p> <p>9 on behalf of the plaintiff;</p> <p>10</p> <p>11</p> <p>12 CALL, JENSEN &amp; FERRELL, P.C., by</p> <p>13 MR. SCOT D. WILSON,</p> <p>14 610 Newport Center Drive,</p> <p>15 Suite 700</p> <p>16 Newport Beach, CA, 92660</p> <p>17 (949) 717-3000,</p> <p>18 on behalf of the defendants.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 Karen Dudzienski versus several BCBG</p> <p>2 entities.</p> <p>3 Are you aware of that,</p> <p>4 sir?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Before we begin, have you</p> <p>7 given a deposition before?</p> <p>8 A. Yes, I have.</p> <p>9 Q. On approximately how many</p> <p>10 occasions?</p> <p>11 A. Couple.</p> <p>12 Q. We are just to go over some</p> <p>13 ground rules before we begin. As you</p> <p>14 may be familiar, the court reporter</p> <p>15 is taking everything down that we say</p> <p>16 so it's important for us, for our</p> <p>17 responses, to be oral so I'd ask you</p> <p>18 to refrain from nods of the head or</p> <p>19 um-hums, which the reporter can't</p> <p>20 take. So please be aware of that.</p> <p>21 Also, if we could</p> <p>22 refrain from talking over one another</p> <p>23 because obviously the reporter can</p> <p>24 only take one person at a time.</p>
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<p>1 DEPOSITION OF AJIT PATEL</p> <p>2 NOVEMBER 11, 2007</p> <p>3 MR. GREEN: Swear in</p> <p>4 the deponent, please.</p> <p>5 AJIT PATEL, called as a</p> <p>6 witness herein, having been first duly</p> <p>7 sworn, was examined and testified as</p> <p>8 follows:</p> <p>9 MR. GREEN: For the</p> <p>10 record this deposition is being taken</p> <p>11 pursuant to notice and will be taken</p> <p>12 according to the Federal Rules of</p> <p>13 Civil Procedure and the local rules</p> <p>14 of the Northern District of Illinois.</p> <p>15 EXAMINATION</p> <p>16 BY MR. GREEN:</p> <p>17 Q. Good morning, sir.</p> <p>18 A. Good morning.</p> <p>19 Q. Could you please state your</p> <p>20 name and spell your last name,</p> <p>21 please.</p> <p>22 A. Ajit Patel, P-A-T-E-L.</p> <p>23 Q. Mr. Patel, for the record,</p> <p>24 my name is Hugh Green and I represent</p>	<p>1 The other issue, if</p> <p>2 there is a question that I ask you</p> <p>3 that is confusing or you don't</p> <p>4 understand, please let me know and I</p> <p>5 will ask it another way.</p> <p>6 I guess -- also, I see</p> <p>7 you have some water in front of you.</p> <p>8 If you need to take a break, please</p> <p>9 let me know. We can take as many</p> <p>10 breaks as you need.</p> <p>11 Are you prepared to</p> <p>12 answer my questions today?</p> <p>13 A. Yes, I am.</p> <p>14 Q. Is there any reason why you</p> <p>15 wouldn't be able to give full and</p> <p>16 complete and truthful answers to my</p> <p>17 questions today?</p> <p>18 A. No.</p> <p>19 Q. I will be referring to a</p> <p>20 statute, and that statute is the Fair</p> <p>21 and Accurate Credit Transactions Act.</p> <p>22 Are you familiar with that statute?</p> <p>23 A. I've heard of it, yes.</p> <p>24 Q. If I refer to it as FACTA,</p>

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1 is it okay as a shorthand term for  
 2 referring to that statute?  
 3 A. Yes.  
 4 Q. Could you just tell me, sir,  
 5 your -- give me a brief background of  
 6 your educational history.  
 7 A. I went to UCLA back in from  
 8 '71 to '76 and studied nuclear  
 9 engineering there, and subsequent to  
 10 that, about ten years later from  
 11 that, I went to Pepperdine University  
 12 and received M.B.A. there.  
 13 Q. And so your undergrad degree  
 14 is from UCLA?  
 15 A. I did not complete a degree  
 16 there but I studied -- I was there  
 17 for six years doing my undergraduate  
 18 and graduate work but never completed  
 19 it yet.  
 20 Q. And your graduate degree --  
 21 you have one graduate degree from  
 22 Pepperdine?  
 23 A. Pepperdine is my executive  
 24 M.B.A., was a night program that I

1 I think that's fair. I understand  
 2 that probably a little bit of this is  
 3 just foundational.  
 4 MR. GREEN: Sure.  
 5 MR. WILSON: But I just  
 6 wanted to clarify that very quickly.  
 7 MR. GREEN: Understood.  
 8 And I thank you for the  
 9 clarification.  
 10 BY MR. GREEN:  
 11 Q. Okay. I guess, for my  
 12 benefit, could you tell me what your  
 13 title is now.  
 14 A. I am currently Chief  
 15 Information Officer for BCBG.  
 16 Q. And how long have you had  
 17 that position?  
 18 A. 18 months.  
 19 Q. And what did you do prior  
 20 to that?  
 21 A. I was achieve -- well, for  
 22 two years I was retired, and then  
 23 prior to that I was Chief Information  
 24 Officer at Chico's.

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1 did.  
 2 Q. Can you tell me what jobs  
 3 you've held after high school.  
 4 A. After high school.  
 5 Q. Yes.  
 6 MR. WILSON: Counsel,  
 7 I'm just going to very briefly -- I'm  
 8 not going to object. I will give  
 9 you some latitude, but I just want to  
 10 clarify that Mr. Patel is being made  
 11 available for deposition pursuant to  
 12 Rule 30B6 as the person most  
 13 qualified to testify on behalf of the  
 14 defendants in this case regarding, as  
 15 you know, pursuant to the Court's  
 16 October 29th ruling, the location of  
 17 the witnesses, both party affiliated  
 18 and nonparty affiliated.  
 19 We will get into  
 20 background but I just want to make  
 21 sure that it's clear between the  
 22 parties that this is not a global PMQ  
 23 deposition regarding all topics, so I  
 24 will let you get into background and

1 Q. And what is Chico's, sir?  
 2 A. It is an apparel company,  
 3 retailer.  
 4 Q. Can you tell me what your  
 5 job duties are as a Chief Information  
 6 Officer.  
 7 MR. WILSON: At Chico's  
 8 or at BCBG?  
 9 BY MR. GREEN:  
 10 Q. At BCBG what are your job  
 11 duties?  
 12 A. I have a lot of  
 13 responsibilities. However, in brief,  
 14 it is I deploy, manage, support  
 15 information -- electronic information  
 16 systems.  
 17 Q. And what does -- can you  
 18 give me a thumbnail sketch of what it  
 19 means to deploy, manage and support  
 20 information systems?  
 21 A. I select information  
 22 systems, computer systems, hardware  
 23 and software, and I implement those  
 24 systems throughout the company where

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<p>1 necessary where it's required, and 2 then I support those systems that we 3 deploy, or the systems that are 4 already in place today, I support 5 them, manage them, maintain them, 6 through my department. 7 Q. What kind of systems do you 8 deploy? 9 A. Lots of systems, which means 10 accounting systems, point of sale 11 systems, merchandise management 12 systems, distribution center systems, 13 apparel design development systems, 14 and a lot more. 15 Q. Are you also in charge of 16 implementing -- strike that. 17 Are you also in charge 18 of acquiring the hardware for those 19 systems? 20 A. Yes, I am. 21 Q. And are you employed 22 directly by BCBG? 23 MR. WILSON: Vague. 24 BY MR. GREEN:</p>	<p>1 BCBG? 2 A. Yes, I am. 3 Q. And can you name the other 4 officers of BCBG? 5 A. Brian Fleming. 6 Q. Can you spell that last 7 name, please. 8 A. F-L-E-M-I-N-G. 9 Q. And who is he? 10 A. He's the Chief Financial 11 Officer. And Ben Malka, M-A-L-K-A, 12 and he is the president. 13 Q. Any other officers of BCBG? 14 A. Max Azria. 15 MR. WILSON: And 16 counsel, when you refer to BCBG, 17 you're referring to BCBG Max Azria 18 Group, Incorporated? 19 MR. WILSON: Yes. 20 BY MR. GREEN: 21 Q. That is your employer. 22 A. That is correct. 23 Q. So just for the record, when 24 I refer to BCBG, I mean BCBG Max</p>
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<p>1 Q. Who is your employer? 2 A. My employer is BCBG Max 3 Azria Group. 4 Q. Are you employed at all by 5 Max Rave? 6 MR. WILSON: Objection 7 to the extent the question calls for 8 legal conclusion. It's fair as to 9 what his understanding of who his 10 employer is, but to ask whether he 11 knows of the specific legal entity 12 that employs him may call for a legal 13 conclusion, but you can answer the 14 question. 15 THE WITNESS: I 16 actually am employed by BCBG Max 17 Azria Group; and BCBG Max Azria Group 18 may own as a division Max Rave, but 19 I am employed by BCBG Max Azria 20 Group. 21 Q. All right. And in terms of 22 are you a -- by your title are you 23 an officer of the company -- of BCBG, 24 excuse me. Are you an officer of</p>	<p>1 Azria Group, Incorporated. Okay? 2 A. I understand. 3 Q. Thank you. And besides 4 those officers, are there any other 5 officers of BCBG? 6 A. Not that I know of. 7 Q. Are there any other -- do 8 you know of any officers -- strike 9 that. 10 What did you do to 11 prepare for your deposition today? 12 A. I didn't prepare for it. 13 All I did was had read everything 14 that I had read and recall that was 15 submitted to you on this hearing but 16 through our legal counsels. 17 Q. And what did you read? 18 A. The things that I have said. 19 The documents I had signed that was 20 given to me that were prepared by our 21 legal counsel. 22 Q. And what documents were 23 those? 24 A. The interrogatories in my --</p>

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<p>1 the interrogatories -- and I don't</p> <p>2 exactly know the names of the</p> <p>3 documents themselves, but there were</p> <p>4 three or four documents that I</p> <p>5 signed.</p> <p>6 Q. Okay. Who do you report</p> <p>7 within BCBG? Who do you report to?</p> <p>8 A. I report to the Chief</p> <p>9 Financial Officer.</p> <p>10 Q. Brian Fleming.</p> <p>11 A. That is correct.</p> <p>12 Q. And who does Brian Fleming</p> <p>13 report to?</p> <p>14 A. I believe he reports to Max</p> <p>15 Azria.</p> <p>16 Q. With respect to BCBG Max</p> <p>17 Azria, do you know how many stores</p> <p>18 they have in the United States?</p> <p>19 A. Not exactly. Not exact</p> <p>20 number. But approximately 200 plus</p> <p>21 stores of BCBG Max Azria and</p> <p>22 approximately 400 plus stores of Max</p> <p>23 Rave.</p> <p>24 Q. And how many BCBG stores are</p>	<p>1 A. It is a sales office for</p> <p>2 our wholesale division.</p> <p>3 Q. And what do they do in New</p> <p>4 York?</p> <p>5 MR. WILSON: If you</p> <p>6 know.</p> <p>7 THE WITNESS: I don't</p> <p>8 exactly know what they do but I</p> <p>9 believe they sell to Macy's and so</p> <p>10 forth. They are retailers.</p> <p>11 BY MR. GREEN:</p> <p>12 Q. Are there any regional</p> <p>13 managers that oversee groups of BCBG</p> <p>14 stores in the U.S.?</p> <p>15 A. Oversee from what capacity,</p> <p>16 may I ask?</p> <p>17 Q. In other words, throughout</p> <p>18 the nation are stores grouped in</p> <p>19 certain regions where there would be</p> <p>20 a supervising manager that would</p> <p>21 oversee other stores in an area? If</p> <p>22 you don't understand, I can ask in</p> <p>23 another way.</p> <p>24 A. So far as I understand, we</p>
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<p>1 there in Illinois, do you know, if</p> <p>2 you know?</p> <p>3 A. I'm sorry, I don't know.</p> <p>4 Q. Could you give me an</p> <p>5 organizational overview of BCBG in the</p> <p>6 United States. And specifically I'm</p> <p>7 asking are there regional offices for</p> <p>8 BCBG stores?</p> <p>9 MR. WILSON: Vague.</p> <p>10 Lacks foundation. Calls for</p> <p>11 speculation. You can answer the</p> <p>12 question.</p> <p>13 BY MR. GREEN:</p> <p>14 Q. You can answer if you</p> <p>15 understand.</p> <p>16 A. No, we don't have any other</p> <p>17 offices outside of Los Angeles except</p> <p>18 for sales offices that we have for</p> <p>19 our wholesale division in New York.</p> <p>20 Q. And where is BCBG's</p> <p>21 headquarters?</p> <p>22 A. In Vernon, California.</p> <p>23 Q. And the office you</p> <p>24 identified in New York is what?</p>	<p>1 have district managers and regional</p> <p>2 managers that oversee the operations</p> <p>3 of the stores.</p> <p>4 Q. And is there a district</p> <p>5 manager that oversees Illinois?</p> <p>6 MR. WILSON: Calls for</p> <p>7 speculation, lacks foundation.</p> <p>8 THE WITNESS: I am</p> <p>9 assuming that there is.</p> <p>10 BY MR. GREEN:</p> <p>11 Q. Is there a regional manager</p> <p>12 that oversees BCBG stores in Illinois?</p> <p>13 MR. WILSON: Same</p> <p>14 objections, but if you know, you can</p> <p>15 answer.</p> <p>16 THE WITNESS: Likewise,</p> <p>17 I am assuming that there is.</p> <p>18 BY MR. GREEN:</p> <p>19 Q. But you don't know.</p> <p>20 A. I couldn't say I absolutely</p> <p>21 know but I would have to say yes,</p> <p>22 there would be a regional manager</p> <p>23 because every store has a district</p> <p>24 manager and a regional manager.</p>



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<p>1 Q. Do you know any district 2 manager within BCBG throughout the 3 United States? 4 A. No, I don't. 5 Q. Do you know any regional 6 manager of BCBG throughout the United 7 States? 8 A. No, I don't. 9 Q. Do you know if the BCBG 10 stores are franchises, the individual 11 BCBG stores, are they franchises? 12 MR. WILSON: Objection 13 to the extent the question calls for 14 legal conclusion, but you can answer 15 as to your understanding. 16 THE WITNESS: I don't 17 believe there are any franchises. 18 They're not. 19 BY MR. GREEN: 20 Q. So are they independently 21 owned? 22 MR. WILSON: Same 23 objections. You can answer. 24 THE WITNESS: That is</p>	<p>1 team would have responsibility for 2 overseeing. 3 But with that, I will 4 let Mr. -- Mr. Patel, you can 5 obviously answer the question to the 6 extent you understand it. 7 THE WITNESS: Details 8 of processing I do not. 9 BY MR. GREEN: 10 Q. What do you mean "details of 11 processing"? 12 A. If you ask me exactly how 13 somebody scans a card, for example, 14 if there is a scanner or if -- how 15 somebody collects that information, 16 specifically how it's collected and 17 sent out to other places for approval 18 or whatever it might be, process 19 involved, no, I don't know. 20 Q. So do you know what hardware 21 is in a specific BCBG store to 22 collect credit card or debit card 23 receipts? 24 MR. WILSON: Objection.</p>
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<p>1 correct. 2 BY MR. GREEN: 3 Q. I'd like to talk to you 4 about credit card processing and debit 5 card processing. Are you familiar 6 with the process -- are you familiar 7 with the procedures that BCBG uses to 8 process debit cards and credit cards? 9 A. Yes. 10 Q. And can you tell me to the 11 extent that you know how BCBG 12 processes credit cards and debit 13 cards? 14 MR. WILSON: Overbroad. 15 Lacks foundation. It's vague and 16 ambiguous. 17 And just to clarify and 18 without getting into a speaking 19 objection, the vagueness in your 20 question lies in whether you're 21 talking about point of sale or from 22 an infrastructure perspective and the 23 types of roles and responsibilities 24 that someone like Mr. Patel and his</p>	<p>1 It's beyond the scope of the narrow 2 purpose for which the witness has 3 been designated as a Rule 30B6 4 witness. 5 Mr. Patel, you can 6 answer the question but mindful of 7 the fact that Mr. Patel's response 8 would be in his individual capacity 9 and not as a person most qualified 10 Rule 30B6 witness speaking on behalf 11 of any BCBG entity. 12 THE WITNESS: There is 13 a lot of hardware in our stores 14 acquired over a long period of time 15 so, no, I don't know exactly what 16 hardware is at any place, nor do I 17 know which hardware is purchased at 18 any particular time to deploy at each 19 other's stores right now. 20 BY MR. GREEN: 21 Q. Same question with regards 22 to the software that's used in BCBG 23 stores. Are you responsible for 24 acquiring that software?</p>

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1 MR. WILSON: Same  
 2 objections but you can respond.  
 3 THE WITNESS: I will  
 4 clarify that I am responsible from a  
 5 very high level what software happens  
 6 to be there in terms of supporting  
 7 and maintaining it, meaning my  
 8 department is responsible, not me  
 9 personally, but I have a vague idea  
 10 of what software is deployed at each  
 11 of the locations -- or throughout the  
 12 company.  
 13 BY MR. GREEN:  
 14 Q. So it's possible there is  
 15 different software at different BCBG  
 16 stores.  
 17 MR. WILSON: Objection.  
 18 Calls for speculation. It lacks  
 19 foundation. It's overbroad and it  
 20 misstates the witness' prior  
 21 testimony. You can answer.  
 22 THE WITNESS: There is  
 23 different software at different  
 24 stores.

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1 BY MR. GREEN:  
 2 Q. Is there different hardware  
 3 at different stores?  
 4 MR. WILSON: Same  
 5 objections.  
 6 THE WITNESS: Yes.  
 7 BY MR. GREEN:  
 8 Q. And just for clarification,  
 9 you are unaware of any specific  
 10 hardware at any of the stores.  
 11 MR. WILSON: Misstates  
 12 prior testimony.  
 13 THE WITNESS: I may be  
 14 aware of a store or two where I may  
 15 have been involved because I was  
 16 there possibly but, no, I do not know  
 17 what specific hardware or software is  
 18 at each particular store.  
 19 MR. GREEN: Okay I'd  
 20 like you to mark this as Plaintiff's  
 21 Exhibit 1.  
 22 (Whereupon Plaintiff's  
 23 Exhibit No. 1 was marked for  
 24 identification.)

1 BY MR. GREEN:  
 2 Q. What I'm handing to your  
 3 attorney is Plaintiff's Exhibit 1.  
 4 If you could please look at that,  
 5 sir, and when you have a chance to  
 6 read it, could you please look up so  
 7 I know you're --  
 8 A. Am I looking at two  
 9 different documents or one document?  
 10 Q. I don't know what your  
 11 attorney handed you. They're the same  
 12 document?  
 13 MR. WILSON: I handed  
 14 Mr. Patel the document which has been  
 15 identified and attached as Exhibit 1  
 16 to Mr. Patel's deposition. So Mr.  
 17 Patel, you're looking at two copies  
 18 of the same document.  
 19 THE WITNESS: Okay.  
 20 Okay.  
 21 BY MR. GREEN:  
 22 Q. Are you familiar with that  
 23 document, sir?  
 24 A. Yes, I am.

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1 Q. And what is that document?  
 2 A. That document is my  
 3 declaration in support of our motion  
 4 to transfer venue.  
 5 Q. Can you please look at page  
 6 5 of that document.  
 7 A. Okay.  
 8 Q. Is that your signature, sir?  
 9 A. That is correct.  
 10 Q. What I'd like to do, Mr.  
 11 Patel, is to go through this document  
 12 and ask you questions about it. I  
 13 point your attention to paragraph 2  
 14 on page 1 and it says, "As a result  
 15 of my employment, I am familiar with  
 16 the various aspects of BCBG's business  
 17 and the operations of each member of  
 18 the BCBG family of companies'  
 19 operations, including knowledge about  
 20 credit card and debit card processing,  
 21 transactions and other information  
 22 technology issues."  
 23 Did I read that  
 24 correctly, sir?



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1 A. You did.  
 2 Q. And can you please tell me  
 3 what the BCBG family of companies is?  
 4 MR. WILSON: Objection  
 5 to the extent the question calls for  
 6 a legal conclusion.  
 7 Mr. Patel, you can  
 8 answer as to what your understanding  
 9 of the BCBG family of companies is,  
 10 but.  
 11 MR. GREEN: You know,  
 12 counsel, I appreciate -- can you  
 13 please make the objection. He wrote  
 14 it here in his declaration and I'm  
 15 asking --  
 16 MR. WILSON: Fair  
 17 enough, counsel. I'm not instructing  
 18 the witness not to answer.  
 19 MR. GREEN: I  
 20 understand. But I want to know what  
 21 it means.  
 22 BY MR. GREEN:  
 23 Q. So with that, what is BCBG  
 24 family of companies?

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1 MR. WILSON: Same  
 2 objection.  
 3 You can answer.  
 4 THE WITNESS: BCBG Max  
 5 Azria owns a number -- or owns as  
 6 divisions a number of companies  
 7 including, for example, Max Rave,  
 8 companies in Europe, Don Algado,  
 9 companies in Asia. So it's a number  
 10 of companies that BCBG Max Azria owns  
 11 and that is the family of companies  
 12 that we refer to.  
 13 BY MR. GREEN:  
 14 Q. What do you mean by -- what  
 15 knowledge do you have of credit card  
 16 and debit card processing, Mr. Patel?  
 17 A. In the process of a  
 18 transaction, when the customer walks  
 19 in, we process a transaction by -- if  
 20 a customer presents a credit card  
 21 with which the customer wishes to pay  
 22 for the purchases that he/she makes,  
 23 we accept the credit card, the credit  
 24 card is swiped and/or entered,

1 possibly sometimes into the register.  
 2 It is then -- the  
 3 register then processes that card for,  
 4 A, possibly validity and/or for  
 5 approval of that card through certain  
 6 organizations that do clearance of the  
 7 credit card. And once the approval  
 8 is received, the salesperson will ring  
 9 up the sale as such.  
 10 Q. What credit cards does BCBG  
 11 accept?  
 12 A. We accept American Express,  
 13 Master Card, Visa.  
 14 Q. Any others?  
 15 A. Possibly Discover.  
 16 Q. Do the stores in Illinois  
 17 accept those credit cards?  
 18 A. I believe so.  
 19 Q. How does BCBG -- strike  
 20 that.  
 21 Is there an agreement  
 22 between BCBG and the credit card  
 23 companies to use credit cards?  
 24 MR. WILSON: Objection.

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1 It's overbroad, calls for speculation,  
 2 lacks foundation, potentially calls  
 3 for legal conclusion, and most  
 4 importantly, it's far outside the  
 5 scope of the Rule 30B6 deposition for  
 6 which we're here today.  
 7 Mr. Patel, you can  
 8 answer the question to the extent you  
 9 know, mindful of that being your  
 10 individual capacity as you've not been  
 11 designated as a 30B6 witness  
 12 testifying today with regard to that  
 13 subject.  
 14 THE WITNESS: I am not  
 15 aware of any agreements personally.  
 16 BY MR. GREEN:  
 17 Q. Okay. Can you please draw  
 18 your attention to paragraph 3 of your  
 19 declaration. Do you know -- it says,  
 20 "BCBG family of companies includes:  
 21 BCBG Max Azria Group, Inc., which is  
 22 a California corporation; BCBG Max  
 23 Azria Holdings, Inc., also a  
 24 California corporation; BCBG Max Azria

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<p>1 International Holdings, Inc., a 2 California corporation; and Max Rave, 3 LLC, a Delaware limited liability 4 company with its principal place of 5 business in Vernon, California"? 6 Did I read that 7 correctly, sir? 8 A. Yes, you did. 9 Q. Can you tell me what BCBG 10 Max Azria's Holdings, Inc.'s primary 11 business is? 12 MR. WILSON: Vague. 13 Calls for speculation. 14 THE WITNESS: I 15 honestly don't know. 16 BY MR. GREEN: 17 Q. Do you know what primary 18 business BCBG Max Azria International 19 Holdings, Inc. does? 20 MR. WILSON: Same 21 objections. 22 THE WITNESS: And the 23 same answer. 24 BY MR. GREEN:</p>	<p>1 2006, Max Rave is a wholly owned 2 subsidiary of BCBG." 3 Did I read that 4 correctly? 5 A. You did. 6 Q. Can you tell me what you 7 meant by that. 8 A. That it was acquired -- the 9 company acquired Max Rave -- 10 Q. I'm sorry. Which company? 11 A. BCBG. 12 Q. BCBG Max Azria Group? 13 A. Max Azria Group is what my 14 understanding is, yes. 15 Q. Okay. Can I draw your 16 attention to paragraph 5. "The 17 headquarters for all of the BCBG 18 family of companies, including BCBG 19 and Max Rave, is located at 2761 20 Fruitland Avenue, Vernon, California, 21 90058. All the senior officers and 22 senior employees for BCBG and Max 23 Rave work out of the California 24 headquarters."</p>
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<p>1 Q. Okay. Do you know any of 2 the officers of BCBG Max Azria 3 Holdings, Inc.? 4 A. Truthfully, no. 5 Q. Do you know if there are 6 officers of that company? 7 A. I don't know. 8 Q. The next question is do you 9 know any officers of BCBG Max Azria 10 International Holdings, Inc.? 11 A. I don't. 12 Q. Do you know any members or 13 directors of Max Rave, LLC? 14 A. I don't. 15 Q. How is BCBG Max Azria Group, 16 Inc. related to Max Rave, LLC? 17 MR. WILSON: Objection. 18 Calls for a legal conclusion. 19 THE WITNESS: I don't 20 know the relationship, direct 21 relationship. 22 BY MR. GREEN: 23 Q. Can I draw your attention to 24 paragraph 7. It says, "Acquired in</p>	<p>1 Did I read that 2 correctly? 3 A. You did. 4 Q. And who are the senior 5 officers that work at BCBG and Max 6 Rave? 7 MR. WILSON: That 8 you're referring to in the paragraph. 9 BY MR. GREEN: 10 Q. Yes. That you're referring 11 to in the paragraph. 12 A. Those officers that I know 13 of that work out of there are Max 14 Azria himself, Ben Malka himself. 15 Q. Could you spell that. 16 A. Ben Malka, M-A-L-K-A. 17 Q. Okay. 18 A. Brian Fleming. I think 19 those are the people that I know who 20 may be the officers of these 21 companies. 22 Q. And where does Max Azria 23 live, if you know? 24 A. I only know that he lives</p>

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1 in Los Angeles someplace.  
 2 Q. Ben Malka, do you know where  
 3 he lives?  
 4 A. Same. He lives in Los  
 5 Angeles someplace.  
 6 Q. Brian Fleming, do you know  
 7 where he lives?  
 8 A. Same answer.  
 9 Q. Do you consider yourself a  
 10 senior officer of BCBG and Max Rave?  
 11 A. I would not consider myself  
 12 a senior officer of Max Rave -- is  
 13 it BCBG or Max Rave?  
 14 Q. Do you consider yourself a  
 15 senior officer of BCBG?  
 16 A. I am an officer of BCBG. I  
 17 don't consider myself among the senior  
 18 officers of BCBG.  
 19 Q. Okay. Do you consider  
 20 yourself an officer of Max Rave?  
 21 A. No, I don't consider myself  
 22 an officer of Max Rave.  
 23 Q. And I'm sorry if I asked  
 24 this before.

1 that was a vendor of the software to  
 2 rewrite the software and modify the  
 3 software in order to make it  
 4 compliant.  
 5 BY MR. GREEN:  
 6 Q. When you say "we," sir, what  
 7 do you mean?  
 8 A. All of the employees what  
 9 I'm referring to in paragraph 8,  
 10 which is my staff and the company,  
 11 the rest of the company.  
 12 Q. And who would be part of  
 13 your staff? Can you name some of  
 14 the individuals that are part of your  
 15 staff.  
 16 A. Sure. At the time this was  
 17 going on, I would say a gentleman by  
 18 the name of Joe Hasenzahl,  
 19 H-A-S-E-N-Z-A-H-L; Steve Suarez; Bill  
 20 Lucas; Ahamed Nehoray, N-E-H-O-R-A-Y;  
 21 and a number of other people. There's  
 22 a lot. I have a big team.  
 23 Q. Approximately how many  
 24 people on your team?

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1 Where do you live?  
 2 A. I live in Los Angeles.  
 3 Q. And if we could jump down  
 4 to paragraph 8, it says, "As with all  
 5 members of the BCBG family of  
 6 companies, although Max Rave is a  
 7 separate legal entity, BCBG and Max  
 8 Rave employees constantly work  
 9 together on a daily basis on various  
 10 projects and tasks, which include  
 11 bringing all BCBG and Max Rave stores  
 12 into compliance with the requirements  
 13 of FACTA."  
 14 Can you tell me what  
 15 efforts were used to bring the BCBG  
 16 stores into compliance with FACTA  
 17 according to that paragraph?  
 18 MR. WILSON: Overbroad.  
 19 THE WITNESS: We  
 20 evaluate -- well, strike that. I was  
 21 calling for myself. We went through  
 22 the process identifying what needed to  
 23 be done in order to make the system  
 24 FACTA compliant and hired a company

1 MR. WILSON: Counsel,  
 2 when you say "team," do you mean  
 3 working directly or indirectly under  
 4 Mr. Patel or do you mean directly or  
 5 indirectly involved in BCBG and Max  
 6 Rave's efforts to bring their credit  
 7 and debit card processing machines  
 8 into compliance with FACTA?  
 9 MR. GREEN: His word  
 10 "team."  
 11 BY MR. GREEN:  
 12 Q. Your word team.  
 13 A. My team consists of people  
 14 here, people -- meaning in Los  
 15 Angeles, in New York, in Europe, in  
 16 Hong Kong. That team that I referred  
 17 to, of course, involves all the  
 18 systems. The team for my retail  
 19 systems, some of those people are  
 20 involved in the retail systems, others  
 21 are not, and that team involved many  
 22 of them that I have listed here.  
 23 Q. And let's go through this.  
 24 Joel Hasenzahl.

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<p>1 A. Joe Hasenzahl.  2 Q. Beg your pardon. Where does  3 he live?  4 A. Joe Hasenzahl is no longer  5 an employee of BCBG.  6 Q. Okay.  7 A. But resides in Los Angeles.  8 Q. And where does Steve Suarez  9 live?  10 A. Steve Suarez also resides in  11 Los Angeles.  12 Q. Is he still an employee of  13 BCBG?  14 A. I'm sorry, no, he's not.  15 Q. Bill Lucas, do you know  16 where he lives?  17 A. He lives in Los Angeles as  18 well.  19 Q. Is he also an employee of  20 BCBG?  21 A. No. He no longer is.  22 Q. And Ilhamid --  23 A. Oh, Ahamed?  24 Q. Yes. I beg your pardon.</p>	<p>1 Q. Are there any people in  2 Europe that helped BCBG come into  3 compliance with FACTA here in the  4 States?  5 A. No.  6 Q. Is there anyone in Hong Kong  7 that would have helped BCBG come in  8 compliance with FACTA here in the  9 United States?  10 A. No.  11 Q. A moment ago you talked  12 about a vendor who helped rewrite the  13 software. Who was that vendor, sir?  14 A. Vendor was Triversity.  15 Q. And what is Triversity?  16 A. Triversity is the vendor of  17 our point of sale software.  18 Q. And can you tell me what a  19 point of sale software is.  20 A. Point of sale software runs  21 on a register at a store which is  22 used for processing transactions at  23 the store.  24 Q. And were you responsible for</p>
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<p>1 Is he with the company?  2 A. He is with the company.  3 Q. Where does he live?  4 A. He resides in Los Angeles as  5 well.  6 Q. You mentioned a moment ago  7 about people in New York. Did they  8 participate in helping -- strike that.  9 Did they -- were they  10 part of your team to bring BCBG in  11 compliance with FACTA?  12 A. Yes.  13 Q. And what members of your New  14 York team -- can you name the members  15 of your New York team?  16 A. Sam Busceti, B-U-S-C-E-T-I.  17 Q. Anyone else?  18 A. I think those are the ones  19 that come immediately to mind.  20 Q. So just him.  21 A. Him, and I believe he may  22 have people that he may have used in  23 the process of making the system  24 compliant.</p>	<p>1 hiring -- strike that.  2 Were you responsible  3 for involving Triversity in your  4 efforts to become -- for BCBG to  5 become compliant with FACTA?  6 A. Among the number of people  7 that were involved, yes, I was.  8 Q. And where is -- do you know  9 where Triversity is located?  10 A. No, I -- they were acquired  11 by another company, SAP. I'm not  12 sure where they're located at this  13 point, whether they have been moved  14 into their offices, so I don't know  15 where they are located right now.  16 Apologize.  17 Q. Sure. But to your  18 knowledge, they're not California --  19 they're not a California corporation?  20 MR. WILSON: Calls for  21 speculation. Lacks foundation. Asked  22 and answered.  23 THE WITNESS: I don't  24 know.</p>



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<p>1 BY MR. GREEN:</p> <p>2 Q. Do you know the individuals</p> <p>3 that you worked with from Triversity?</p> <p>4 MR. WILSON: When you</p> <p>5 say "you," counsel, are you referring</p> <p>6 to Mr. Patel personally or in his</p> <p>7 representative capacity?</p> <p>8 BY MR. GREEN:</p> <p>9 Q. As part of your team do you</p> <p>10 know any individual from Triversity</p> <p>11 that helped BCBG become compliant with</p> <p>12 FACTA?</p> <p>13 A. Yes.</p> <p>14 Q. And who would those -- who</p> <p>15 are those individuals?</p> <p>16 A. A gentleman by the name of</p> <p>17 Greg Slepian, S-L-E-P-I-A-N; and a</p> <p>18 lady by the name of Julie Lee.</p> <p>19 Q. Could you spell that last</p> <p>20 name, sir.</p> <p>21 A. L-E-E.</p> <p>22 Q. And do you know where they</p> <p>23 live? Excuse me. Do you know where</p> <p>24 Greg Slepian lives?</p>	<p>1 speculation. Lacks foundation.</p> <p>2 Overbroad. Potentially calls for an</p> <p>3 expert opinion.</p> <p>4 THE WITNESS: They made</p> <p>5 the modifications that were called</p> <p>6 for.</p> <p>7 BY MR. GREEN:</p> <p>8 Q. And what was called for?</p> <p>9 MR. WILSON: Same</p> <p>10 objections. Beyond the scope of the</p> <p>11 deposition.</p> <p>12 THE WITNESS: I did not</p> <p>13 personally participate in that -- what</p> <p>14 was called for, because I had several</p> <p>15 team members that involved themselves</p> <p>16 with them to make it compliant, so I</p> <p>17 don't exactly know what was exactly</p> <p>18 called of them to do. No. I</p> <p>19 personally am not aware of exactly</p> <p>20 what they were asked to do.</p> <p>21 BY MR. GREEN:</p> <p>22 Q. Do you know what Triversity</p> <p>23 was asked to do with respect to the</p> <p>24 software?</p>
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<p>1 A. He lives in Arizona.</p> <p>2 Q. Do you know where Julie Lee</p> <p>3 lives?</p> <p>4 A. She lives in Los Angeles.</p> <p>5 Q. Are there any other vendors,</p> <p>6 third-party vendors, that you worked</p> <p>7 with in order to bring BCBG in</p> <p>8 compliance with FACTA?</p> <p>9 A. We worked with a company</p> <p>10 called NSB.</p> <p>11 Q. And is it NSB Retail</p> <p>12 Systems, PLC?</p> <p>13 A. That's correct.</p> <p>14 Q. What did they do -- excuse</p> <p>15 me. What did NSB do to help from</p> <p>16 your efforts to comply with FACTA,</p> <p>17 your team's efforts, excuse me, to</p> <p>18 comply with FACTA?</p> <p>19 A. The same thing that</p> <p>20 Triversity did, which is modify the</p> <p>21 software to comply.</p> <p>22 Q. And what did they do to the</p> <p>23 software to comply?</p> <p>24 MR. WILSON: Calls for</p>	<p>1 MR. WILSON: Same</p> <p>2 objections.</p> <p>3 THE WITNESS: Same</p> <p>4 thing. I don't personally -- I</p> <p>5 personally did not instruct them. I</p> <p>6 have technical people who work with</p> <p>7 them to instruct them to do what they</p> <p>8 thought needed to be done in order to</p> <p>9 make this compliant.</p> <p>10 BY MR. GREEN:</p> <p>11 Q. Did you give your approval</p> <p>12 for NSB to be part of the team to</p> <p>13 bring BCBG in compliance with FACTA?</p> <p>14 A. Yes, I did.</p> <p>15 Q. But you don't know what they</p> <p>16 did.</p> <p>17 A. Not to the extent what</p> <p>18 programming effort, what exact code</p> <p>19 changes might have been made, no, I</p> <p>20 don't. I wasn't aware of that.</p> <p>21 Q. And I apologize if I asked</p> <p>22 this, but you approved of Triversity</p> <p>23 to become part of a team to help</p> <p>24 BCBG become compliant with FACTA.</p>

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<p>1 A. As a vendor, yes.</p> <p>2 Q. But you don't know what they</p> <p>3 did.</p> <p>4 A. No, I don't.</p> <p>5 MR. WILSON: Just as a</p> <p>6 belated objection, the question is</p> <p>7 vague, it lacks foundation, it's</p> <p>8 overbroad. It misstates the witness'</p> <p>9 prior testimony.</p> <p>10 Another thing, counsel,</p> <p>11 I want to make sure -- and I think</p> <p>12 I'm doing a good job of giving you</p> <p>13 latitude because I want all of the</p> <p>14 evidence to come before the Court on</p> <p>15 the 15th; but I think it's important</p> <p>16 that we not abuse this process and</p> <p>17 this very limited Rule 30B6 deposition</p> <p>18 and get into matters for which the</p> <p>19 witness has not been designated as a</p> <p>20 Rule 30B6 witness and that don't</p> <p>21 relate at all to the location of the</p> <p>22 witnesses, either party affiliated or</p> <p>23 nonparty affiliated, and I think some</p> <p>24 of your questions are treading beyond</p>	<p>1 MR. WILSON: Counsel,</p> <p>2 there's no need to get upset.</p> <p>3 MR. GREEN: This isn't</p> <p>4 upset. This is about your client's</p> <p>5 declaration. I appreciate your</p> <p>6 latitude for what it's worth. Can we</p> <p>7 continue?</p> <p>8 MR. WILSON:</p> <p>9 Absolutely.</p> <p>10 BY MR. GREEN:</p> <p>11 Q. Where is NSB located, sir?</p> <p>12 A. In Montreal, Canada.</p> <p>13 Q. Can you name any of the</p> <p>14 individuals who were part of your</p> <p>15 team from NSB?</p> <p>16 MR. WILSON: Vague,</p> <p>17 ambiguous, lacks foundation. You</p> <p>18 could answer, Mr. Patel.</p> <p>19 BY MR. GREEN:</p> <p>20 Q. Maybe I could ask it another</p> <p>21 way. What individuals from NSB</p> <p>22 worked with your team?</p> <p>23 A. I'm not aware of who</p> <p>24 specifically worked from the NSB team</p>
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<p>1 that scope.</p> <p>2 MR. GREEN: Well,</p> <p>3 counsel, I appreciate your lecture on</p> <p>4 the rules. However, these are</p> <p>5 questions related to Mr. Patel's</p> <p>6 declaration. He's made certain</p> <p>7 statements --</p> <p>8 MR. WILSON: Counsel,</p> <p>9 there's no need to get upset. I</p> <p>10 just want to --</p> <p>11 MR. GREEN: I want you</p> <p>12 to know that this is what your client</p> <p>13 has laid out in the declaration and</p> <p>14 I'm asking the followup questions.</p> <p>15 MR. WILSON: I know.</p> <p>16 And I haven't instructed the witness</p> <p>17 not to answer. I want to make sure</p> <p>18 that we streamline the process, we</p> <p>19 make it efficient, that we both</p> <p>20 comply with the letter and spirit of</p> <p>21 Judge Shadur's order.</p> <p>22 MR. GREEN: I'm well</p> <p>23 aware of the order, sir, which is</p> <p>24 right here.</p>	<p>1 on my -- on the project. As I</p> <p>2 indicated to you before, I have</p> <p>3 several layers of people that work</p> <p>4 for me who worked with NSB to make</p> <p>5 the system compliant. Personally, I</p> <p>6 did not even get into any</p> <p>7 negotiations with them on this issue.</p> <p>8 BY MR. GREEN:</p> <p>9 Q. But it's fair to say that</p> <p>10 this Canadian company helped --</p> <p>11 participated in bringing BCBG in</p> <p>12 compliance with FACTA.</p> <p>13 MR. WILSON: Overbroad.</p> <p>14 Argumentative. Lacks foundation.</p> <p>15 It's vague. You can answer, Mr.</p> <p>16 Patel.</p> <p>17 THE WITNESS: That's</p> <p>18 correct.</p> <p>19 BY MR. GREEN:</p> <p>20 Q. Okay. Let's go to paragraph</p> <p>21 9 of your declaration. "Despite" --</p> <p>22 and I'm reading, "Despite the efforts</p> <p>23 of me and my team at BCBG and Max</p> <p>24 Rave, I'm aware of four lawsuits</p>



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<p>1 alleged by legends of FACTA that have 2 been brought against BCBG and Max 3 Rave." 4 Did I read that 5 correctly? 6 A. You did. 7 Q. And what efforts did you and 8 your team do? 9 MR. WILSON: Vague. 10 Vague as to time. Overbroad. 11 Ambiguous. You can answer. 12 THE WITNESS: Can you 13 be more specific as to what -- 14 BY MR. GREEN: 15 Q. Sure. I will repeat it. 16 Despite the efforts of me and my team 17 at BCBG and Max Rave, what efforts 18 are you referring to in that 19 paragraph? 20 A. We are referring to efforts 21 to make the system compliant with 22 FACTA. 23 Q. And what specific efforts 24 did you do?</p>	<p>1 MR. WILSON: Objection. 2 Attorney-client privilege. Attorney 3 work product. 4 Mr. Patel, you can 5 answer the question, but you should 6 not disclose any confidential 7 communications between you, any member 8 of your team, and any BCBG attorney 9 either in-house or an outside law 10 firm. 11 THE WITNESS: I'm not 12 aware that it was -- they were or 13 they are not compliant. 14 BY MR. GREEN: 15 Q. Okay. When did you become 16 aware of the requirements of FACTA? 17 A. When I was notified that the 18 certain number of lawsuits were -- or 19 a lawsuit, actually, specifically, a 20 lawsuit was brought to my attention 21 is when I became aware of FACTA at 22 that point, that we needed to do 23 something. 24 Q. And when you became aware of</p>
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<p>1 A. We looked at the code, we 2 analyzed whether there was anything 3 that we needed to do in order to 4 make it compliant, if there was 5 anything that may be lacking, and 6 instructed our vendors off our point 7 of sale software to modify the code 8 as necessary to make it compliant. 9 Q. And what is the code? 10 A. The code is the software 11 that runs on the point of sale 12 registers. 13 Q. And what does the code do? 14 A. The code does a lot of 15 things, among them processes a 16 transaction, sale transaction, credit 17 card. It takes a credit card, gets 18 approval from wherever it needs to 19 get approval from, depending on which 20 vendor we use for approval processing, 21 and prints out receipts and so forth. 22 Q. How did you know that the 23 BCBG stores were not compliant with 24 FACTA?</p>	<p>1 this lawsuit, what did you do? 2 MR. WILSON: Objection. 3 Vague. Are you asking Mr. Patel 4 personally what he did -- 5 MR. GREEN: Yes. 6 MR. WILSON: -- or what 7 BCBG did? 8 MR. GREEN: Yes. I 9 want to know what Mr. Patel did. 10 THE WITNESS: As soon 11 as I was asked -- as soon as I was 12 informed of this, my first reaction 13 was to determine whether the stores 14 that was in question over here may 15 have or may not have been in 16 compliance, so I instructed my point 17 of sale people that work on the point 18 of sale system to go verify and do 19 what's necessary to correct it if 20 there happens to be a violation in 21 there. 22 BY MR. GREEN: 23 Q. And who are the point of 24 sale people?</p>

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<p>1 A. It was Bill Lucas, it was 2 Steve Suarez, it was Ahamed Nehoray. 3 I think those are the people that 4 come to my mind who I instructed to 5 look into the problem. 6 Q. And when you say "look into 7 the problem," what did you instruct 8 them to do? 9 A. To assess whether in fact 10 what I was told that we may be doing 11 or not doing -- 12 MR. WILSON: And just 13 Mr. Patel, you shouldn't disclose any 14 confidential communications between 15 you or any other employees of BCBG 16 and any BCBG attorney. You can 17 answer to the extent your response 18 doesn't disclose such communications 19 because your communications between 20 you and counsel are privileged. But 21 go ahead. I apologize for 22 interrupting. Go ahead. 23 THE WITNESS: Because I 24 discussed these with my attorneys, I</p>	<p>1 confidential communications. If you 2 want to know what actions were taken, 3 you're free to ask that and Mr. Patel 4 will answer. 5 MR. GREEN: Can you 6 read back my question. 7 (Record read as from 8 page 40, lines 20-21.) 9 MR. GREEN: So we are 10 clear that you're asserting 11 attorney-client privilege with respect 12 to that statement, that question. 13 MR. WILSON: That's 14 absolutely correct. If you want to 15 know what they did or what actions he 16 took, he can answer that; but to the 17 extent the question calls for any 18 confidential communications between 19 either Mr. Patel or any other BCBG or 20 Max Rave employee between any BCBG 21 in-house attorney or outside attorney, 22 the question is invasive of the 23 attorney-client privilege. 24 Now, subject to and</p>
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<p>1 will choose not to answer that. 2 BY MR. GREEN: 3 Q. So you're refusing to answer 4 that question. 5 MR. WILSON: To the 6 extent the question calls for a 7 confidential communication. If you 8 want to know what actions -- 9 MR. GREEN: I'm just 10 asking Mr. Patel, just so I know so 11 the record is clear. 12 MR. WILSON: He is 13 refusing to disclose confidential 14 communications between himself and his 15 attorneys. He'll answer your question 16 but not to the extent -- 17 MR. GREEN: Counsel, 18 I'm asking Mr. Patel. 19 MR. WILSON: Counsel, 20 you need to calm down. I'm giving you 21 a lot of leeway here. I'm simply 22 asserting an attorney-client privilege 23 objection. You're trying to make the 24 witness feel bad for not disclosing</p>	<p>1 without waiving that objection, Mr. 2 Patel, you can answer the question. 3 THE WITNESS: I simply 4 instructed my team, people, Steve 5 Suarez and Bill Lucas, to look into 6 the -- when I was instructed that we 7 had a lawsuit filed, of course, the 8 first thing I do is would have asked, 9 A, why is this true, so I instructed 10 him to go and determine that. 11 BY MR. GREEN: 12 Q. And with respect to the 13 actions they took, did they contact 14 individual stores? 15 MR. WILSON: Objection. 16 Vague as to the term "contact." 17 BY MR. GREEN: 18 Q. Did they communicate with -- 19 did Bill Lucas or Steve Suarez 20 communicate with any BCBG stores? 21 MR. WILSON: Calls for 22 speculation. Lacks foundation. You 23 can answer if you know. 24 THE WITNESS: I'm not</p>

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1 sure exactly what they did to  
2 determine whatever they had to  
3 determine. They had to find out  
4 whether these allegations were true or  
5 not with respect to the lawsuit that  
6 was filed. I do not know. So I  
7 basically instructed them to go  
8 research and find out what was the  
9 problem, if there was any.

10 BY MR. GREEN:

11 Q. What does that mean? In  
12 other words, what do you mean  
13 research the problem? And I will try  
14 to be more direct, okay, I will try  
15 to be more direct. I'm not trying  
16 to be combative and I appreciate  
17 this.

18 What steps were taken  
19 to find out whether or not certain  
20 receipts were complying with FACTA?

21 MR. WILSON: Objection.  
22 It's overbroad. It's beyond the  
23 scope of this deposition. Counsel,  
24 how does that question relate to the

1 need you to do that.

2 MR. WILSON: You just  
3 asked me to explain the objection.  
4 I'm happy to do that.

5 MR. GREEN: I want to  
6 get on track.

7 MR. WILSON: I do too.  
8 The reason we're here today is  
9 because Mr. Patel has been designated  
10 as the person most qualified according  
11 to Rule 30B6. He flew out here  
12 today to talk about the location of  
13 the witnesses, party and nonparty  
14 affiliates.

15 Now, we are not going  
16 to get in to and open up the scope  
17 of this deposition to every issue  
18 that's relevant in this case. We  
19 don't have time to do that and I'm  
20 not going to allow that. Let's keep  
21 to what is at issue and what the  
22 Court ordered us to talk about, which  
23 is the location of the witnesses.

24 We are not going to

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1 location of the witnesses?

2 MR. GREEN: This is the  
3 question that's on the table and I  
4 would like the deponent to answer.

5 MR. WILSON: I would  
6 like an offer of proof as to why  
7 that --

8 MR. GREEN: I don't  
9 have to give you an offer of proof.

10 MR. WILSON: Then I  
11 will instruct the witness not to  
12 answer in regards that it's far  
13 beyond the scope of the 30B6 rule.

14 MR. GREEN: And what is  
15 that issue? Here's the question that  
16 we have, counsel --

17 MR. WILSON: Calm down.  
18 I know you're an experienced attorney.  
19 There's no need to get upset.

20 MR. GREEN: I'm not  
21 upset.

22 MR. WILSON: I will  
23 tell you about Rule 30B6.

24 MR. GREEN: I don't

1 talk about every single thing that  
2 BCBG and Max Rave did once they got  
3 first notice of these lawsuits. If  
4 you want to talk about who did what  
5 and where they reside and where they  
6 work, let's do that. I'm just trying  
7 to move this process along, counsel.

8 MR. GREEN: Finished?

9 MR. WILSON: Yes.

10 MR. GREEN: Thank you.

11 BY MR. GREEN:

12 Q. Back to what my question  
13 was, what did Bill Lucas and Steve  
14 Suarez do pursuant to your orders?

15 A. I don't know exactly what  
16 they did.

17 Q. You don't know. Do you  
18 know if they contacted any individuals  
19 in Illinois at any BCBG store?

20 A. I don't know that.

21 Q. Did you ever contact any  
22 individuals in Illinois at any BCBG  
23 store to find out whether or not the  
24 stores were complying with FACTA?

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<p>1 A. I did not.</p> <p>2 Q. Did any member of your team</p> <p>3 or -- start with that. Did any</p> <p>4 member of your team contact anyone,</p> <p>5 any BCBG employee in Illinois,</p> <p>6 regarding the requirements of FACTA?</p> <p>7 MR. WILSON: Calls for</p> <p>8 speculation. It's vague and</p> <p>9 ambiguous. It lacks foundation.</p> <p>10 THE WITNESS: I don't</p> <p>11 know exactly what they did.</p> <p>12 BY MR. GREEN:</p> <p>13 Q. Do you know if any of your</p> <p>14 vendors contacted anyone in Illinois</p> <p>15 regarding the requirements of FACTA?</p> <p>16 A. Same answer. I don't know</p> <p>17 exactly what they did.</p> <p>18 Q. Paragraph 11 of your</p> <p>19 declaration, "BCBG and Max Rave admit</p> <p>20 that despite their best efforts and</p> <p>21 good-faith efforts to bring the</p> <p>22 machines and all of their stores into</p> <p>23 compliance with FACTA, they may have</p> <p>24 on one or more occasions printed the</p>	<p>1 in Illinois, about complying with</p> <p>2 FACTA.</p> <p>3 MR. WILSON: Objection.</p> <p>4 Lacks foundation. It calls for</p> <p>5 speculation. It's beyond the scope</p> <p>6 of the Rule 30B6 deposition today.</p> <p>7 THE WITNESS: No, I</p> <p>8 don't.</p> <p>9 BY MR. GREEN:</p> <p>10 Q. You don't.</p> <p>11 A. No.</p> <p>12 Q. Paragraph 13, "In addition,</p> <p>13 BCBG and Max Rave immediately took</p> <p>14 various steps to remedy their</p> <p>15 operations upon receiving notice of</p> <p>16 the requirements of FACTA."</p> <p>17 Did I read that</p> <p>18 correctly, sir?</p> <p>19 A. You did.</p> <p>20 Q. What steps did BCBG take in</p> <p>21 Illinois?</p> <p>22 MR. WILSON: Same</p> <p>23 objections. Beyond the scope of the</p> <p>24 Rule 30B6 deposition. The question</p>
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<p>1 expiration date of a credit card."</p> <p>2 What efforts or</p> <p>3 good-faith efforts did you employ to</p> <p>4 bring machines in Illinois into</p> <p>5 compliance with FACTA?</p> <p>6 MR. WILSON: Objection.</p> <p>7 It's beyond the scope of the</p> <p>8 deposition. It's vague. It's</p> <p>9 ambiguous.</p> <p>10 THE WITNESS: I</p> <p>11 personally did not, personally,</p> <p>12 personally, I did not; but I had my</p> <p>13 team do whatever necessary and they'd</p> <p>14 been instructed to do whatever</p> <p>15 necessary to make sure that we comply</p> <p>16 with all the laws. Always.</p> <p>17 BY MR. GREEN:</p> <p>18 Q. What did your team do here</p> <p>19 in Illinois to comply with the laws?</p> <p>20 A. Exactly what they did, I do</p> <p>21 not know.</p> <p>22 Q. So you don't know whether --</p> <p>23 you don't know if your team spoke to</p> <p>24 anyone in Illinois, a BCBG employee</p>	<p>1 has nothing to do with the location</p> <p>2 of the witnesses.</p> <p>3 MR. GREEN: It has</p> <p>4 everything to do, counsel. What steps</p> <p>5 did they take in Illinois? What</p> <p>6 individuals did they contact? And so</p> <p>7 far I hear nothing.</p> <p>8 MR. WILSON: If you ask</p> <p>9 Mr. Patel whether he's aware of any</p> <p>10 witnesses who did anything in</p> <p>11 Illinois, I think the question does</p> <p>12 relate to the scope of the deposition</p> <p>13 and why we're here today; but if</p> <p>14 you're simply asking what was done in</p> <p>15 Illinois, the question is vague and</p> <p>16 ambiguous because are you asking --</p> <p>17 MR. GREEN: I'm not</p> <p>18 going to argue this, counsel.</p> <p>19 MR. WILSON: Well, I'm</p> <p>20 just trying to clarify the objection</p> <p>21 and streamline things here.</p> <p>22 MR. GREEN: You're</p> <p>23 doing more talking than he is here.</p> <p>24 I don't know if you're getting paid</p>



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<p>1 by the word. I just would like to 2 get through this. 3 BY MR. GREEN: 4 Q. We will go this route. Mr. 5 Patel, what individuals did your team 6 speak with in Illinois regarding 7 compliance with FACTA? 8 A. As I said, exactly what they 9 spoke, I don't know because I wasn't 10 there. 11 Q. I understand. Who? 12 MR. WILSON: Counsel, 13 calm down. Your tone is getting very 14 argumentative. Try and maintain your 15 composure. 16 THE WITNESS: Who they 17 spoke to -- I will assume they will 18 have spoken to, assume they spoke to 19 a store manager possibly or an 20 assistant manager possibly. 21 BY MR. GREEN: 22 Q. But you don't know the names 23 of -- 24 A. I don't know the names.</p>	<p>1 sure what exactly Max Rave, IT 2 director, did or did not do 3 specifically because a store, I 4 believe, in question was a BCBG 5 store. I don't know exactly what Sam 6 Busceti may have done. 7 He may have spoken 8 with, again, store manager or the 9 store assistant manager or he may 10 have used our ability to remotely 11 look at the systems and determine 12 what or what was not being done at 13 the receipt level in that particular 14 store. 15 Q. So you are not in charge or 16 you have -- you were not responsible 17 for the information technology of Max 18 Rave. 19 A. I am totally and always have 20 been responsible. I instruct my 21 people. I don't program. I don't 22 write code. I don't do any of that 23 right now. I have far broader 24 responsibilities, but I am also very</p>
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<p>1 MR. WILSON: Move to 2 strike as speculation. Lacks 3 foundation. 4 THE WITNESS: No. 5 MR. GREEN: Can I 6 finish the question or no? 7 MR. WILSON: Counsel, 8 I'm just preserving a record here. 9 MR. GREEN: I 10 understand, but can you let me finish 11 the question? 12 MR. WILSON: Of course. 13 I didn't mean to interrupt you. 14 MR. GREEN: Okay. 15 BY MR. GREEN: 16 Q. Same question. What did Max 17 Rave -- what, to your knowledge, did 18 Max Rave -- what individuals in 19 Illinois did Max Rave contact in 20 order that their stores comply with 21 FACTA? 22 MR. WILSON: Same 23 objections. 24 THE WITNESS: I'm not</p>	<p>1 specific to make sure that we, A, 2 comply with the law, that B, our 3 systems functioned accurately as they 4 are supposed to. 5 Q. Okay. I don't understand 6 your answer. So I just want to ask 7 -- and it's not because -- I'm sure 8 you were doing your best to make it 9 clear to me and it's my fault. 10 I just am trying to 11 understand that, from what you said, 12 it's Steve Busceti, is that his name? 13 A. Steve Busceti. 14 Q. Busceti is in charge -- 15 A. Sam Busceti. I'm sorry. 16 Q. Sam Busceti is in charge of 17 information technology for Max Rave 18 and you are not directly responsible 19 for that? 20 MR. WILSON: Misstates 21 prior testimony. 22 THE WITNESS: I am 23 directly responsible. Just equally as 24 I am responsible for the BCBG store</p>

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<p>1 systems.</p> <p>2 BY MR. GREEN:</p> <p>3 Q. Okay. Could we jump to</p> <p>4 paragraph 15. "Nearly all of the</p> <p>5 BCBG and Max Rave employees who would</p> <p>6 be required to introduce this evidence</p> <p>7 currently work and live in</p> <p>8 California." You're saying nearly</p> <p>9 all.</p> <p>10 What other BCBG</p> <p>11 employees that you know do not work</p> <p>12 and live in California that would be</p> <p>13 -- that would have evidence relevant</p> <p>14 to this lawsuit?</p> <p>15 A. Sam Busceti being one, and</p> <p>16 any store operations people in his</p> <p>17 organization, meaning Max Rave store</p> <p>18 operations not directly reporting to</p> <p>19 me, may have information related to</p> <p>20 this.</p> <p>21 Q. How about with respect to</p> <p>22 BCBG?</p> <p>23 A. With respect to BCBG, our</p> <p>24 store operations people, the regional</p>	<p>1 have been another party through a</p> <p>2 company called Red Iron.</p> <p>3 BY MR. GREEN:</p> <p>4 Q. Two words, Red Iron?</p> <p>5 A. Red Iron.</p> <p>6 Q. And do you know where</p> <p>7 they're located?</p> <p>8 A. They are located in -- you</p> <p>9 know what? I think they're located</p> <p>10 somewhere in Canada. I'm not sure</p> <p>11 where.</p> <p>12 Q. Would any of these</p> <p>13 third-party vendors be involved --</p> <p>14 would any of these third-party vendors</p> <p>15 have communication with individuals</p> <p>16 associated with BCBG in Illinois?</p> <p>17 A. I don't think so.</p> <p>18 Q. But you're not sure.</p> <p>19 A. I'm not sure.</p> <p>20 Q. Paragraph 16, and again, I</p> <p>21 apologize. You mentioned Sam Busceti,</p> <p>22 and I'm just trying to look at my</p> <p>23 notes. He is a New York/New Jersey</p> <p>24 resident.</p>
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<p>1 managers, would be aware of this. The</p> <p>2 store people who -- store operations</p> <p>3 people at our headquarters, there are</p> <p>4 numerous of them, that in fact are</p> <p>5 the ones that work with all the</p> <p>6 stores to instruct them to do</p> <p>7 whatever we require them to do out of</p> <p>8 our headquarters.</p> <p>9 Q. Could I draw your attention</p> <p>10 to footnote 1 on that same page. It</p> <p>11 says there are third-party vendors.</p> <p>12 You may have identified them but I</p> <p>13 just want to be clear. What</p> <p>14 third-party vendors are you referring</p> <p>15 to?</p> <p>16 A. First, NSB, and second,</p> <p>17 Triversity.</p> <p>18 Q. And those are the only</p> <p>19 third-party vendors.</p> <p>20 MR. WILSON: That he's</p> <p>21 referring to in footnote 1?</p> <p>22 MR. GREEN: Beg your</p> <p>23 pardon. Yes. I'm sorry.</p> <p>24 THE WITNESS: There may</p>	<p>1 And what knowledge and</p> <p>2 information regarding BCBG does he</p> <p>3 have according to your paragraph 16?</p> <p>4 What did you mean by that?</p> <p>5 A. He is one of the directors.</p> <p>6 He also has knowledge of the</p> <p>7 Triversity application which runs on</p> <p>8 all our point of sale terminals on</p> <p>9 both BCBG as well as on the Max Rave</p> <p>10 systems. So he has intricate</p> <p>11 knowledge of the systems.</p> <p>12 Q. And turning to page 5, Brian</p> <p>13 Fleming, what knowledge and</p> <p>14 information regarding operations in</p> <p>15 transactions would he have?</p> <p>16 A. As Chief Financial Officer</p> <p>17 of the company, he would obviously</p> <p>18 have had to be involved, in my</p> <p>19 opinion, to do with anything that</p> <p>20 happens which impacts the company's</p> <p>21 finances.</p> <p>22 Q. Would he have had any</p> <p>23 contact with any individuals in</p> <p>24 Illinois regarding BCBG's compliance</p>



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<p>1 with FACTA?</p> <p>2 MR. WILSON: Calls for</p> <p>3 speculation. Lacks foundation.</p> <p>4 THE WITNESS: I don't</p> <p>5 know.</p> <p>6 BY MR. GREEN:</p> <p>7 Q. Billie Parsons, what</p> <p>8 information -- excuse me. As vice</p> <p>9 president of finance in BCBG, what</p> <p>10 information would Billie Parsons have</p> <p>11 respective to compliance with FACTA?</p> <p>12 A. Exactly the same as Mr.</p> <p>13 Fleming. Being a vice president of</p> <p>14 finance, she would have to be</p> <p>15 involved with any efforts through our</p> <p>16 retail operations.</p> <p>17 Q. Paragraph 17 you name Visa</p> <p>18 which says "is located in Foster</p> <p>19 City, California." You also mentioned</p> <p>20 earlier that Master Card is also</p> <p>21 accepted by BCBG stores. Do you know</p> <p>22 where Master Card is located?</p> <p>23 A. I don't know where their</p> <p>24 headquarters are.</p>	<p>1 A. Russell Bauers was our</p> <p>2 comptroller for retail operations,</p> <p>3 retail finance operations. So he</p> <p>4 would be very intricately involved in</p> <p>5 this. If there were any</p> <p>6 communications, he would have been the</p> <p>7 first one to have been communicated</p> <p>8 to.</p> <p>9 Q. Paragraph 18 it states,</p> <p>10 "Because the allegations in these</p> <p>11 lawsuits relate to credit card and</p> <p>12 debit card processing and transaction,</p> <p>13 the plaintiffs in the Hile, Bathon,</p> <p>14 Gueorguiev and Dudzienski lawsuits may</p> <p>15 want to conduct inspections of</p> <p>16 documents and evidence related to BCBG</p> <p>17 and Max Rave's operations, records and</p> <p>18 procedures. All such evidence that</p> <p>19 that is potentially related to the</p> <p>20 allegations in Hile, Bathon,</p> <p>21 Gueorguiev and Dudzienski lawsuits are</p> <p>22 located in California, including all</p> <p>23 documents."</p> <p>24 What operations,</p>
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<p>1 Q. You mentioned earlier that</p> <p>2 American Express is also a credit</p> <p>3 card that's accepted by BCBG.</p> <p>4 Do you know where they</p> <p>5 are located?</p> <p>6 A. Their credit card</p> <p>7 operations, as I might know from the</p> <p>8 past, I'm not sure if they are still</p> <p>9 there, but was Phoenix, Arizona.</p> <p>10 Q. And you mentioned -- are you</p> <p>11 aware of either Visa, Master Card, or</p> <p>12 American Express communicating with</p> <p>13 any individuals -- any BCBG employees</p> <p>14 in Illinois with respect to compliance</p> <p>15 with FACTA?</p> <p>16 A. No, I'm not aware of</p> <p>17 anything.</p> <p>18 Q. You indicate in paragraph 17</p> <p>19 Russell Bauers. Do you know where</p> <p>20 Russell Bauers lives?</p> <p>21 A. Yes. He lives in Los</p> <p>22 Angeles.</p> <p>23 Q. And what information</p> <p>24 regarding BCBG does he have knowledge?</p>	<p>1 according to paragraph 18, are in</p> <p>2 California?</p> <p>3 A. All. Pretty much all</p> <p>4 operations --</p> <p>5 Q. Sorry. I will let you</p> <p>6 finish.</p> <p>7 A. All operations are in</p> <p>8 California, which means we are talking</p> <p>9 about all their -- the store</p> <p>10 operations people, the store</p> <p>11 allocations people, merchandise</p> <p>12 planning operations, financial</p> <p>13 operations. All of those are located</p> <p>14 in Los Angeles, California.</p> <p>15 Q. Are any operations located</p> <p>16 in Illinois? Excuse me. Are any</p> <p>17 operations located in Illinois?</p> <p>18 A. No.</p> <p>19 Q. What records are located in</p> <p>20 California?</p> <p>21 A. Every record basically of</p> <p>22 the company. Any store with respect</p> <p>23 to all of the records are located in</p> <p>24 California.</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q. Do you know if there are 2 any records that are located in 3 Illinois? 4 A. Repeat that, please. 5 Q. Yes. Can you tell me what 6 records are located in Illinois? 7 MR. WILSON: Objection. 8 Assumes facts not in evidence. Lacks 9 foundation. 10 THE WITNESS: I'm not 11 sure if there's anything that -- any 12 records that are resident in Illinois. 13 BY MR. GREEN: 14 Q. What procedures are in 15 California? 16 A. Be more specific. What 17 procedures? 18 Q. What do you mean by 19 "procedures" in paragraph 18? 20 A. Oh, okay. You shifted on 21 me a little too quickly. 22 Q. I'm sorry. 23 A. All procedures are in 24 California basically to do with</p>	<p style="text-align: right;">Page 80</p> <p>1 that would be involved in those 2 cases? 3 MR. WILSON: Objection. 4 Overbroad. It lacks foundation. 5 Calls for a legal conclusion. You 6 can answer very generally, Mr. Patel, 7 to the extent that you understand the 8 question. 9 THE WITNESS: Every 10 machine is exactly the same, 11 basically, or pretty similar, so I 12 would assume that everything related 13 to this particular case, all of them 14 being the same, all of those things 15 are similar or the same things. 16 BY MR. GREEN: 17 Q. What do you mean by 18 "machines"? 19 A. The back office machines 20 where we process all the credit card 21 transactions and/or transactions in 22 the back office. 23 Q. What witnesses are involved 24 in those four cases that are the</p>
<p style="text-align: right;">Page 79</p> <p>1 anything to do with store operations, 2 store communications, store 3 coordinations. Any communications 4 that goes back and forth. Financial 5 procedures, all of them are located 6 in California. 7 Q. Are there any procedures 8 that would be located here in 9 Illinois? 10 A. Not that I know of. 11 Q. All right. Do you know 12 what Ambiron Trustwave is, sir? 13 Ambiron Trustwave. A-M-B-I-R-O-N, 14 Trustwave. 15 A. I'm sorry, I don't. 16 Q. Let me just look over my 17 notes. Paragraph 14, last sentence, 18 sir. "I anticipate that Hile, 19 Bathon, Gueorguiev and Dudzienski will 20 involve many of the same facts, 21 witnesses, documents, software 22 programs, machines and other 23 evidence." 24 What are the same facts</p>	<p style="text-align: right;">Page 81</p> <p>1 same? 2 MR. WILSON: Asked and 3 answered. 4 BY MR. GREEN: 5 Q. You could answer. 6 A. Just about everybody that 7 would be involved in one would be 8 involved in the other because they 9 were all part of this effort. 10 Q. What documents are the same 11 in all these cases? 12 A. Same. All the documents 13 that are associated, one and all are 14 located in California, whether it's 15 BCBG or Max, all located in 16 California. 17 Q. What software programs are 18 the same in all these cases? 19 A. The point of sale software 20 is the same as well as the back 21 office software and the credit card 22 processing software for approval, all 23 of those are the same. 24 Q. And they're all located in</p>

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<p>1 California?</p> <p>2 A. The software in the</p> <p>3 machines, hardware, everything located</p> <p>4 in California.</p> <p>5 Q. And there's no software or</p> <p>6 hardware machines located in Illinois?</p> <p>7 MR. WILSON: Vague and</p> <p>8 ambiguous.</p> <p>9 THE WITNESS: Other</p> <p>10 than the point of sale system, yes.</p> <p>11 MR. GREEN: I don't</p> <p>12 have any other questions.</p> <p>13 MR. WILSON: I don't</p> <p>14 know the local procedure, whether you</p> <p>15 -- in the Northern District of</p> <p>16 Illinois, whether you stipulate to</p> <p>17 remove the deposition officer for</p> <p>18 duties and obligations under the</p> <p>19 Federal Rules. If there is such a</p> <p>20 procedure, if you want to propose it,</p> <p>21 we can do that.</p> <p>22 MR. GREEN: In other</p> <p>23 words --</p> <p>24 MR. WILSON: If you</p>	<p>1 a little bit of a very brief</p> <p>2 examination. And you may have some</p> <p>3 followup questions following my very</p> <p>4 brief examination. Because I want to</p> <p>5 make sure that this is both of the</p> <p>6 parties' opportunity to advise the</p> <p>7 Court of the kind of global universe</p> <p>8 of who we anticipate to be the</p> <p>9 witnesses in these cases and the</p> <p>10 location of those witnesses.</p> <p>11 So I think there was</p> <p>12 some -- there are some persons that</p> <p>13 have not been talked about that we</p> <p>14 should probably briefly address, so I</p> <p>15 will -- we will go forward with a</p> <p>16 brief examination and let you come</p> <p>17 back with some Cross.</p> <p>18 MR. GREEN: Sure.</p> <p>19 MR. WILSON: Why don't</p> <p>20 we take a quick break and go off the</p> <p>21 record if that's okay with you,</p> <p>22 counselor.</p> <p>23 MR. GREEN: That's</p> <p>24 fine.</p>
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<p>1 like, I can try and propose what kind</p> <p>2 of comstom we have in California.</p> <p>3 MR. GREEN: It's your</p> <p>4 client. I wouldn't want to stipulate</p> <p>5 -- let's do the usual stipulation, so</p> <p>6 I'm not sure how you want to --</p> <p>7 MR. WILSON: Okay.</p> <p>8 MR. GREEN: I know that</p> <p>9 you'll have an opportunity to review</p> <p>10 your transcript. The changes that</p> <p>11 you -- in other words, if there are</p> <p>12 some changes, you can make and review</p> <p>13 the transcript prior to signing it or</p> <p>14 you can waive the signature, and</p> <p>15 that's up to you. Some of the changes</p> <p>16 that would be made are slight. You</p> <p>17 couldn't, for instance, change a yes</p> <p>18 to a no, but you can make those and</p> <p>19 you can review that prior to or you</p> <p>20 can waive your signature.</p> <p>21 MR. WILSON: Why don't</p> <p>22 we take a quick break.</p> <p>23 MR. GREEN: Sure.</p> <p>24 MR. WILSON: I might do</p>	<p>1 (Off the record.)</p> <p>2 MR. WILSON: Why don't</p> <p>3 we go back on the record.</p> <p>4 EXAMINATION</p> <p>5 BY MR. WILSON:</p> <p>6 Q. Mr. Patel, as you know, my</p> <p>7 name is Scot Wilson. I'm an attorney</p> <p>8 at Call, Jensen &amp; Farrell, counsel in</p> <p>9 this case for defendants, BCBG, Max</p> <p>10 Azria Group, Incorporated, BCBG Max</p> <p>11 Azria Holdings, Incorporated and BCBG</p> <p>12 Max Azria International Holdings,</p> <p>13 Incorporated.</p> <p>14 Mr. Patel, who is</p> <p>15 Robert Oleesky, O-L-E-E-K-S-I?</p> <p>16 THE WITNESS: S-K-Y.</p> <p>17 Robert Oleesky is my</p> <p>18 predecessor at BCBG. He was a Chief</p> <p>19 Technology Officer prior to my coming</p> <p>20 on board and remained up with the</p> <p>21 company through the year 2006.</p> <p>22 Q. When you refer to BCBG, are</p> <p>23 you refer to BCBG Max Azria Group,</p> <p>24 Incorporated?</p>

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<p>1 A. Yes, I am.</p> <p>2 Q. Is it your testimony that</p> <p>3 Mr. Oleesky is no longer an employee</p> <p>4 of BCBG Max Azria Group, Incorporated?</p> <p>5 A. That is correct.</p> <p>6 Q. And what was the approximate</p> <p>7 date that Mr. Oleesky's employment</p> <p>8 with BCBG Max Azria Group,</p> <p>9 Incorporated ended, to your knowledge?</p> <p>10 A. I believe it was early this</p> <p>11 year.</p> <p>12 Q. Earlier in 2007?</p> <p>13 A. 2007. Early in 2007, yes.</p> <p>14 Q. Do you know if Mr. Oleesky</p> <p>15 -- strike that.</p> <p>16 Do you know where Mr.</p> <p>17 Oleesky lives?</p> <p>18 A. Yes. He lives in Los</p> <p>19 Angeles.</p> <p>20 Q. Did Mr. Oleesky work out of</p> <p>21 BCBG Max Azria Group, Incorporated's</p> <p>22 headquarters in Vernon, California?</p> <p>23 A. Yes, he did.</p> <p>24 Q. I believe you previously</p>	<p>1 retail systems manager at BCBG Max</p> <p>2 Azria Group, Incorporated in Vernon,</p> <p>3 California; is that right?</p> <p>4 A. That is right.</p> <p>5 Q. When did Bill Lucas stop</p> <p>6 working at BCBG Max Azria Group,</p> <p>7 Incorporated?</p> <p>8 A. It was approximately May</p> <p>9 timeframe.</p> <p>10 Q. Do you know if Mr. Lucas</p> <p>11 still lives in Los Angeles?</p> <p>12 A. He lives in Los Angeles.</p> <p>13 Q. Do you know if Mr. Lucas</p> <p>14 has taken a position with any other</p> <p>15 company since his employment at BCBG</p> <p>16 Max Azria Group, Incorporated ceased?</p> <p>17 A. Yes. He is working with a</p> <p>18 company in Los Angeles.</p> <p>19 Q. How about Russell Bauers? I</p> <p>20 believe you previously testified that</p> <p>21 Mr. Bauers was involved as a retail</p> <p>22 comptroller or a similar type position</p> <p>23 at BCBG Max Azria Group but no longer</p> <p>24 works for the company.</p>
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<p>1 testified that there was an individual</p> <p>2 by the name of Steve Suarez who used</p> <p>3 to work at BCBG Max Azria Group as a</p> <p>4 store systems manager; is that</p> <p>5 correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Do you know when Mr. Suarez</p> <p>8 left BCBG Max Azria Group?</p> <p>9 A. I believe he left around</p> <p>10 March, April timeframe, I think.</p> <p>11 Q. April of 2007?</p> <p>12 A. 2007.</p> <p>13 Q. And do you know if Mr.</p> <p>14 Suarez has taken a new position at</p> <p>15 any company?</p> <p>16 A. Yes. He is employed by</p> <p>17 another company.</p> <p>18 Q. Do you know where the</p> <p>19 company that Mr. Suarez now works at</p> <p>20 is located?</p> <p>21 A. In Los Angeles.</p> <p>22 Q. How about Bill Lucas? I</p> <p>23 believe you testified previously that</p> <p>24 Mr. Lucas previously worked as a</p>	<p>1 A. That is correct.</p> <p>2 Q. Do you know if Mr. Bauers</p> <p>3 has taken a position with a new</p> <p>4 employer since his employment at BCBG</p> <p>5 Max Azria Group, Incorporated ceased?</p> <p>6 A. Yes, he has taken on another</p> <p>7 job.</p> <p>8 Q. Do you know where that job</p> <p>9 is located, Mr. Bauers' current</p> <p>10 employment?</p> <p>11 A. It is in downtown Los</p> <p>12 Angeles.</p> <p>13 Q. With respect to Joe</p> <p>14 Hasenzahl, who I believe you</p> <p>15 previously testified was the director</p> <p>16 of retail systems at BCBG Max Azria</p> <p>17 Group, Incorporated, Mr. Hasenzahl is</p> <p>18 also a former employee; is that</p> <p>19 correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Do you know if Mr. Hasenzahl</p> <p>22 -- strike that.</p> <p>23 Do you know when Mr.</p> <p>24 Hasenzahl stopped working at BCBG Max</p>



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<p>1 Azria Group?</p> <p>2 A. I believe that was around</p> <p>3 March timeframe of this year, 2007.</p> <p>4 Q. And do you know if Mr.</p> <p>5 Hasenzahl has taken any other position</p> <p>6 since leaving BCBG Max Azria Group?</p> <p>7 A. Yes, he has.</p> <p>8 Q. Do you know the location of</p> <p>9 Mr. Hasenzahl's current employer?</p> <p>10 A. I don't know exactly</p> <p>11 location of but I know he's in Los</p> <p>12 Angeles.</p> <p>13 Q. Do you believe that --</p> <p>14 strike that.</p> <p>15 If this case were to</p> <p>16 proceed to trial in Illinois, do you</p> <p>17 believe that Mr. Oleesky would</p> <p>18 voluntarily appear and testify as a</p> <p>19 witness in this case?</p> <p>20 A. No.</p> <p>21 Q. Why?</p> <p>22 A. Because of the situation</p> <p>23 under which he left.</p> <p>24 Q. Do you believe that if this</p>	<p>1 if this case were to proceed to trial</p> <p>2 in Illinois, do you believe that Mr.</p> <p>3 Bauers would voluntarily appear at</p> <p>4 trial to testify as a witness?</p> <p>5 A. I don't believe he would</p> <p>6 either.</p> <p>7 Q. And why do you believe that</p> <p>8 Mr. Bauers would not travel to</p> <p>9 Illinois to voluntarily appear and</p> <p>10 testify as a witness in this case if</p> <p>11 the case were to proceed in Illinois?</p> <p>12 A. Again, the same situation.</p> <p>13 Time obligations with work.</p> <p>14 Q. Do you believe that Joe</p> <p>15 Hasenzahl would voluntarily appear to</p> <p>16 testify as a witness at trial in this</p> <p>17 case if this case were to proceed in</p> <p>18 Illinois?</p> <p>19 A. I don't think so either.</p> <p>20 Q. Why not?</p> <p>21 A. It's the same situation</p> <p>22 again. It's the time obligation with</p> <p>23 his work.</p> <p>24 MR. WILSON: I don't</p>
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<p>1 case were to proceed to trial in</p> <p>2 Illinois, Mr. Suarez would voluntarily</p> <p>3 appear as a witness at trial in this</p> <p>4 case?</p> <p>5 A. No.</p> <p>6 Q. Why?</p> <p>7 A. Because of the work</p> <p>8 requirements, his position, I don't</p> <p>9 think, would allow him to leave</p> <p>10 California for any period of time.</p> <p>11 Q. The work situation with Mr.</p> <p>12 Suarez' current employer?</p> <p>13 A. Yes.</p> <p>14 Q. If this case were to proceed</p> <p>15 to trial in Illinois, do you believe</p> <p>16 that Mr. Lucas would voluntarily</p> <p>17 appear to testify as a witness?</p> <p>18 A. I don't believe he will</p> <p>19 either.</p> <p>20 Q. Why?</p> <p>21 A. I believe the same</p> <p>22 situation, because of his work</p> <p>23 obligations.</p> <p>24 Q. With respect to Mr. Bauers,</p>	<p>1 have any further questions.</p> <p>2 Counsel, do you have</p> <p>3 any followup?</p> <p>4 MR. GREEN: No.</p> <p>5 MR. WILSON: Going back</p> <p>6 to your stipulation, counsel, I will</p> <p>7 give one a crack if you want. I</p> <p>8 propose that we relieve the deposition</p> <p>9 officer of her duties and obligations</p> <p>10 under the Federal Rules of Civil</p> <p>11 Procedure; that the original</p> <p>12 deposition transcript be provided to</p> <p>13 counsel for defendants. Upon our</p> <p>14 receipt of the original deposition</p> <p>15 transcript, we will forward it to Mr.</p> <p>16 Patel. He'll have 35 days --</p> <p>17 counsel, is that okay?</p> <p>18 MR. GREEN: I'm sorry?</p> <p>19 MR. WILSON: No.</p> <p>20 That's fine.</p> <p>21 MR. GREEN: I'm more of</p> <p>22 a State -- I should know that.</p> <p>23 MR. WILSON: -- 35 days</p> <p>24 upon receipt by our office of the</p>

## DEPOSITION OF AJIT PATEL - November 9, 2007

<p style="text-align: right;">Page 94</p> <p>1 original deposition transcript for Mr.  2 Patel to review the deposition  3 transcript and make any changes or  4 corrections that he deems necessary  5 with the understanding that such  6 corrections can, and likely may, be  7 commented upon for any purposes at  8 trial or otherwise.  9 In the event the  10 original deposition transcript is  11 lost, destroyed, or otherwise  12 unavailable at the time of trial or  13 any other time for which it may be  14 required by order of the Court, a  15 true and correct copy -- a certified  16 copy may be used in lieu of the  17 original.  18 As the party retaining  19 the original deposition transcript,  20 our office will have the  21 responsibility of lodging the original  22 deposition with the Court at the  23 appropriate time.  24 Aside from that, just</p>	<p style="text-align: right;">Page 96</p> <p>1 KARIN DUDZIENSKI VS  2 BCBG MAX AZRIA GROUP, et al.  3 The Deposition of AJIT PATEL,  4 taken in the matter, on the date, and  5 at the time and place set out on the  6 title page hereof.  7 It was requested that the  8 deposition be taken by the reporter  9 and that same be reduced to  10 typewritten form.  11 It was agreed by and between  12 counsel and the parties that the  13 Deponent will read and sign the  14 transcript of said deposition.  15 .  16 .  17 .  18 .  19 .  20 .  21 .  22 .  23 .  24 .</p>
<p style="text-align: right;">Page 95</p> <p>1 to let you know, counsel, given the  2 kind of unique nature of this  3 deposition, we have asked the court  4 reporter to get an expedited  5 transcript of the deposition so that  6 hopefully by the time of the hearing  7 on the 15th we can provide the Court  8 with a copy of the deposition  9 transcript so that we are in a  10 position where we can point to  11 specific testimonies as opposed to  12 characterizing the actual testimony  13 for purposes of our arguments,  14 obviously.  15 So with that, that's  16 the stipulation. Do you agree?  17 MR. GREEN: I agree.  18 MR. WILSON: So  19 stipulated.  20 FURTHER DEPONENT SAITH  21 NOT  22  23  24</p>	<p style="text-align: right;">Page 97</p> <p>1 . CERTIFICATE  2 STATE OF :  3 COUNTY OF :  4 Before me, this day,  5 personally appeared, AJIT PATEL, who,  6 being duly sworn, states that the  7 foregoing transcript of his/her  8 Deposition, taken in the matter, on  9 the date, and at the time and place  10 set out on the title page hereof,  11 constitutes a true and accurate  12 transcript of said deposition.  13 .  14 AJIT PATEL  15 .  16 SUBSCRIBED and SWORN to before me  17 this day of ,  18 _____ in the jurisdiction aforesaid.  19  20 My Commission Expires Notary Public  21 .  22 .  23 .  24 .</p>



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4	File No. 34855	4	AJIT PATEL
5	Case Caption: KARIN DUDZIENSKI VS	5	EX-BY MR. GREEN 3
6	BCBG MAX AZRIA GROUP, et al.	6	EX-BY MR. WILSON 85
7	DEPONENT: AJIT PATEL	7	
8	DEPOSITION DATE: NOVEMBER 9, 2007	8	
9		9	
10	To the Reporter:	10	
11	I have read the entire transcript of	11	
12	my Deposition taken in the captioned	12	
13	matter or the same has been read to	13	
14	me. I request that the following	14	
15	changes be entered upon the record	15	
16	for the reasons indicated. I have	16	
17	signed my name to the Errata Sheet	17	
18	and the appropriate Certificate and	18	
19	authorize you to attach both to the	19	
20	original transcript.	20	
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